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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,898	11/21/2003	Kenji Dosaka	107348-00389	7383
4372	7590	03/26/2008		
ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			EXAMINER MAYEKAR, KISHOR	
			ART UNIT	PAPER NUMBER
			1795	
			NOTIFICATION DATE	DELIVERY MODE
			03/26/2008 ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
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Office Action Summary

Application No.

10/717,898

Applicant(s)

DOSAKA ET AL.

Examiner

Kishor Mayekar

Art Unit

1795

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Caren et al. (US 6,029,442) in light of Evans et al. (US 6,479,023 B1). Caren's invention is directed to a method and apparatus for using free radicals to reduce pollutants in the exhaust gases from the combustion of fuel. Caren discloses that the method comprises the steps of generating plasma in an exhaust gas from an internal combustion engine to produce highly oxidizing free radicals such as hydroxyl radicals (read on the recited $O(^1D)$), OH, hydroperoxyl radical (read on the recited per-hydroxide), HOO, and ozone, O_3 , by a corona discharge from water vapor and residual oxygen in the exhaust gases and oxidizing the pollutants in the exhaust gases (col. 1, lines 13-25; paragraph crossing cols. 4 and 5; col. 7, line 53 through col. 8, line 24; and claim 40). Caren also discloses that the internal combustion engine is a gasoline engine or a diesel engine (col. 1, lines 29-53) and lean burn engine (col. 2, lines 63-65). Caren further discloses that "[i]gnition of the air/fuel mixture in the cylinder is typically achieved by an ignition device, ..., which heats the mixture to a temperature above its ignition point (col. 1, lines 33-37), "After the combustion of the air/mixture, the resulting exhaust gases are expelled from the combustion chamber to an exhaust manifold" (col. 1, lines 54-56), and "In certain embodiments, in addition to operating at a temperature on

the order of 800° C., the corona discharge device must meet ..., and be capable of withstanding thousands of thermal transients of about 800° C. during start-up and cool down of the engine, as well as several million smaller thermal transients where the change in temperature is on the order of about 200° C" (col. 12, lines 54-67). As such Caren's method inherently comprises the added step of heating the exhaust gas, whether the heating is from the combustion of fuel or during the generation of the plasma. Evans teaches the exhaust gases from a combustion engine containing particulate material (col. 1, lines 13-27). As such Caren in light of Evans discloses all the steps as claimed. As to the recited temperature range in the heating step, it has been held that the disclosure in the prior art of any value within the claimed range is an anticipation of that range. And a prima facie case of obviousness exists in the case where the claimed range overlaps range disclosed by the prior art, *In re Wertheim* 191 USPQ 90.

Allowable Subject Matter

2. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, for reasons as of record.

Response to Arguments

3. Applicant's arguments filed 12 December 2007 have been fully considered but they

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are not persuasive.

In response to Applicant's argument that the rejection to claims 1 and 3 appears to be an obviousness type rejection under 35 USC § 103(a), and not an anticipation as indicated by the Office action. First, since the rejection is based on Caren **in light of** Evans and is **not** based on Caren **in view of** Evans, the rejection is an anticipation and the anticipation is based on Caren's teachings, where Evan is used to show that a characteristic, the exhaust gases from a combustion engine containing particulate material), not disclosed in Caren is inherent. See MPEP 2131.01.

To the argument that "nowhere in Caren is there any teaching of heating the exhaust gas prior to the exhaust being treated in the catalytic converter", since the limitation on which Applicant relies is not stated in the claims, therefore it is irrelevant whether the reference includes the limitation or not.

As to the argument that "Caren does not disclose or suggest heating the exhaust gas at the claimed temperature greater than 70° C", since Caren's method inherently comprises the added step of heating the exhaust gas, whether the heating is from the combustion of fuel or during the generation of the plasma, the rejection stands.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (571) 272-1339. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kishor Mayekar/
Primary Examiner, Art Unit 1795